

Town of Frederick Board of Trustees



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AM 2009-101

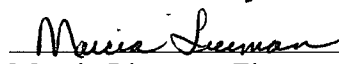
SPECIAL USE REVIEW FOR 13 PROPOSED OIL AND GAS WELLS (ANADARKO/KERR-MCGEE: NELSON 2, 3, 4, 5, 6, 7, 8, 21, 22, 24, 28, 30 AND 41 IN SECTION 35)

Agenda Date: October 27, 2009

Attachments:

- a. Project description from Anadarko / Kerr-McGee
- b. Resolution
- c. Applicant's summary of the proposal
- d. Vicinity Map
- e. Site Plan

Fiscal Note: None noted



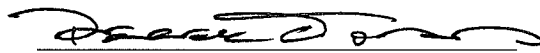
Marcia Lierman, Finance Director

Submitted by:



Todd Tucker, Staff Planner

Approved for Presentation:



Derek Todd, Town Administrator

AV Use Anticipated Projector X Laptop

Certification of Board Approval:

Town Clerk

Date

Summary Statement: Anadarko / Kerr-McGee requests approval for the construction of 13 new directional oil and natural gas wells, and ancillary facilities on the Nelson property. Upon implementation of specific conditions, the request can comply with the provisions of the Land Use Code and adhere to the policies of the Comprehensive Plan. However, while Kerr-McGee is current on all of the wells permitted under their name, Anadarko, the parent company, has an outstanding inspection fee balance on two wells. According to Sec. 4.11.5.a(2) of the Land Use Code, approval may only be granted by the Board of Trustees for proposed oil and natural gas facilities when there are outstanding balances for inspection fees.

Detail of Issue/Request:

Applicant: Crystal Blake / Terry Enright
Kerr-McGee Oil and Gas OnShore LP
A subsidiary of Anadarko Petroleum Corporation
1099 18th Street
Denver, CO 80202

Location, Adjacent Land Use and Zoning: The property (parcel number 131335100002) is located within the north half of Section 35, Township 2 North, Range 68 West, of the 6th principal meridian and zoned Medium Density Residential (R-2) and Employment (C-E). The Comprehensive Plan designations match the Zoning. The surrounding properties are largely undeveloped large tracts of land with a few dispersed residences and businesses in proximity to the site.

Surrounding land uses, zoning, and jurisdiction:

North Undeveloped – PUD, BLI, and C-E, Town of Frederick
East Undeveloped – PUD and PUD R-1, Town of Frederick
South Undeveloped – CR, I-1, and R-1, City of Dacono
West I-25

Referral: The application was referred per the provisions of the Land use Code. All referral responses are on file with the Planning Department and have been incorporated into the report as applicable.

Public Notice: The public hearing was noticed in accordance with the provisions of the Land Use Code.

Review Criteria: Section 9.5 of the Land Use Code establishes the review criteria for oil and gas facilities in the Town of Frederick. Section 4.11.5 of the Land Use Code establishes the review procedures for oil and gas applications.

Section 4.11.5.a. Review procedures, states:

- (1) If the applicant has paid the inspection fees as outlined in Article 9 of the Land Use Code, an application for special use shall follow the core procedure for review of administrative applications, stated in Section 4.10.
- (2) If the applicant has not paid the inspection fees as outlined in Article 9 of the Land Use Code, an application for special use shall follow the core procedure for review of administrative applications, stated in Section 4.10, however, the application must be presented to the Board of Trustees for approval.

The application has been considered in accordance with Section 4.10 of the Land Use Code. However, since the inspection fees as outlined in Article 9 of the Land Use Code have not been paid, the application must be presented to the Board of Trustees for consideration.

Section 9.5.A. The Board of Trustees shall approve an application for a use permitted by conditional review for a well site if the application submitted by the applicant conforms to the following requirements:

1. **The site plans for a well site application comply with the requirements of Section 9.4 A.1 of this Article.**
2. **The vicinity maps for a well site application comply with the requirements of Section 9.4 A.2 of this Article.**
3. **The narrative for a well site application complies with the requirements of Section 9.4 A.3 of this Article.**
4. **The well location and setbacks comply with the requirements of Section 9.8 of this Article.**
5. **When applicable, compliance with the provisions for mitigation of noise required in Section 9.10 of this Article.**
6. **When applicable, compliance with the provisions for visual special mitigation required in Section 9.11 of this Article.**
7. **When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 9.16 of this Article.**
8. **When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 9.18 of this Article.**

No referral indicates conflicts with the criteria noted above. However, the applicant has not provided all of the required 2008 inspection fees per Sections 9.3.(c) and 4.11.5.a.(2) of the Land Use Code. Two wells remain with outstanding balances (API: 12308697 Grant Bros. 41-31 (2-67) and API: 12308824 Nelson 42-33 (2-68)) for a total amount past due amount of \$915.73 as of September 29, 2009. Note that the original billing for these wells occurred May 29, 2009. Furthermore, with the installation of the 21 wells on the Miners Village (File No. 2008-09 Dacono Wells) chain link fencing was installed when it is expressly prohibited by the Land Use Code for the zoning district (see Section 2.16.2.d of the Land Use Code). Note that Staff has been working with Anadarko since January to remedy this situation.

The applicant indicates that they are in compliance with these criteria. Upon review, staff finds that wells 3-35, 4-35, 5-35, 6-35, 22-35, 28-35, and 30-35 and their accessory equipment are clustered within the drill window, while wells 2-35, 7-35, 8-35, 21-35, 24-35, and 41-35 are subject to a location waiver which allows them to be clustered outside of the drill window. Note that well 2-35, 7-35, 8-35, 21-35, 24-35, and 41-35 are adjacent to Godding Hollow, which is designated as a flood plain in the Comprehensive Plan. The applicant indicates that the wells in proximity to Godding Hollow are not within the flood plain as recognized by FEMA, and have been engineered to comply with FEMA requirements. Since there is no pending development for the site, the applicant may refrain from installing any fencing until development, and has been advised that any fencing installed shall be in compliance with the provisions of the Land Use Code, as approved by the Planning Department and Building Department prior to installation. They have also been advised that chain link fencing is not permitted in the zoning districts established for the subject property. Access to the site shall utilize a drive from Tipple Parkway. The applicant will be required to secure rights-of-way permits (access permit and overweight vehicle permit) in accordance with the Town Code.

Staff has reviewed the criteria noted above and finds that the application can be consistent with the provisions of the Land Use Code provided certain conditions are met (see recommended

conditions of approval below). Please note that section 9.3(c) of the Land Use Code states that there is an annual inspection fee required for all wells in the Town of Frederick. According to Sec. 4.115.a(2) of the Land Use Code, when an applicant has outstanding balances for oil and gas inspection fees, an application for additional oil and gas facilities may only be approved by the Board of Trustees.

Legal/Political Considerations: The Board should be aware that the applicant is not compliant with multiple provisions of the Land Use Code regarding its other operations within the Town. Applicant has not paid all 2008 oil/gas inspection fees due under Art. 9, and the fencing around 21 wells violates the provisions of Art. 2. Though certain limitations may apply in the oil/gas operation context, piecemeal adherence to the Town's regulations does not meet the spirit of the Land Use Code. Accordingly, applicant should be encouraged to bring all operations into compliance with the applicable Codes in conjunction with commencing the proposed operation. A permittee's compliance with local codes while operating under a special use permit is part of the quid pro quo exchanged with a local permitting authority.

Alternatives/Options: As noted previously, Sections 4.11.5 and 9.5.A. of the Land Use Code states that the Board of Trustees shall approve an application for a special use permitted by conditional review for a well site if the application conforms to the applicable requirements. Upon review of the application, it was determined that the application can conform to the applicable requirements provided certain conditions are met.

ACTIONS: The Board of Trustees may consider several options regarding the application including the following:

- ☐ Approve the request finding it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Approve the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

Financial Considerations: None noted.

Staff Recommendation: Staff recommends approval for the proposed oil and gas natural wells and ancillary facilities (ANADARKO - NELSON WELLS 3-35, 4-35, 5-35, 6-35, 22-35, 28-35, 30-35, 2-35, 7-35, 8-35, 21-35, 24-35, and 41-35) subject to the following conditions:

1. For the improvements related to wells 2-35, 7-35, 8-35, 21-35, 24-35, and 41-35, a surveyed site plan and construction drawings stamped by a Surveyor and Professional Engineer certified by the State of Colorado shall be provided verifying compliance with FEMA requirements and that these improvements are not within the Godding Hollow Flood Plain prior to mobilization.
2. Construction activity shall be coordinated to avoid conflicts and nuisances with neighboring property owners and shall employ methods to reduce the impacts of sound during drilling, operation and maintenance. Future oil and gas wells and related non-emergency construction activity and maintenance on this site shall be timed to minimize conflicts with neighboring developments and uses and employ methods to minimize nuisances to the neighboring property owners.

3. Prior to mobilization, the applicant will contact all neighboring property owners within 1,000 feet of the drill site to provide a company contact name and phone number and advised them of the drilling operation and completion process.
4. All service, drilling, and regular maintenance vehicles for the well site shall utilize the existing access unless modified by an SUA and shown on a subdivision plat. Future development may result in relocation of access points and separate access approvals by the Town. All heavy equipment using Town streets require a special access / right-of-way permit, including but not limited to drill rigs. Special right-of-way access or heavy vehicle permits shall be granted by the Town Engineer on a case-by-case basis. Paved roads adjacent to drill the site shall be maintained free of mud and debris at all times. The use of vehicle tracking control is required. The use of traffic control may be required by the Town Engineer.
5. Prior to well completion / installation of the fencing, the applicant will provide Town staff a fencing plan, elevations, and specifications for review and approval. All fencing shall conform to the Town Code (Section 2.16) as approved by Town Staff.
6. As built drawings shall be provided to the Town within 45 days of completion of the well.
7. All commitments of record, as noted in the file and established during the public hearing shall be adopted as conditions of approval, including but not limited to the access, hours of operation / timing of construction, site reclamation, and sound mitigation, site maintenance, weed control, drainage and erosion control, sanitation, emergency response plans, site reclamation, fencing, and other applicable requirements of the Land Use Code.